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## *Attorneys for Debtors and Reorganized Debtors*

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

In re:

Bankruptcy Case No. 19-30088 (DM)

## PG&E CORPORATION,

Chapter 11

- and -

(Lead Case) (Jointly Administered)

# PACIFIC GAS AND ELECTRIC COMPANY,

**REORGANIZED DEBTORS' REPLY IN  
FURTHER SUPPORT OF THE ONE  
HUNDRED FIFTEENTH OMNIBUS  
OBJECTION (NO LIABILITY  
RECATEGORIZED CLAIMS) WITH  
RESPECT TO CLAIM NO. 87604 (KIM  
MILLER)**

## Debtors.

[Re: Docket No. 12173]

Date: August 9, 2022

Time: 10:00 a.m. (Pacific Time)

Place: (Tele/Videoconference Appearances Only)  
United States Bankruptcy Court  
Courtroom 17, 16th Floor  
San Francisco, CA 94102

1           **I. PRELIMINARY STATEMENT**

2           In advance of the August 9, 2022, 10:00 a.m. omnibus hearing (the “**Hearing**”),<sup>1</sup> PG&E  
3 Corporation (“**PG&E Corp.**”) and Pacific Gas and Electric Company (the “**Utility**”), as debtors and  
4 reorganized debtors (collectively, the “**Debtors**,” “**PG&E**,” or the “**Reorganized Debtors**”) in the  
5 above-captioned chapter 11 cases (the “**Chapter 11 Cases**”), hereby submit this reply brief (the  
6 “**Reply**”) in further support of the *Reorganized Debtors’ One Hundred Fifteenth Omnibus Objection to  
7 Claims (No Liability Recategorized Claims)* [Docket No. 12173] (the “**Omnibus Objection**”)<sup>2</sup> to Claim  
8 No. 87604 (Kim Miller) (the “**Contested Claim**”), for which an informal response was received by the  
9 Reorganized Debtors by e-mail on May 24, 2022 (the “**Miller Response**”). A copy of the Miller  
10 Response is attached hereto as **Exhibit A**.<sup>3</sup>

11           Through the Omnibus Objection, the Reorganized Debtors stated the legal grounds upon which  
12 they objected to the Contested Claim and presented supporting facts through the declaration of A. Anna  
13 Capelle [Docket No. 12174] and the Request to Take Judicial Notice [Docket No. 12175] (the “**RJN**”).  
14 The Reorganized Debtors thus having supported the Omnibus Objection by facts and law, “the burden  
15 reverts to the claimant to prove the validity of the claim by a preponderance of the evidence,” *Ashford  
16 v. Consolidated Pioneer Mortgage (In re Consolidated Pioneer Mortgage)*, 178 B.R. 222, 226 (B.A.P.  
17 9th Cir. 1995) (quoting *In re Allegheny Int’l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)), *aff’d without  
18 opinion* 91 F.3d 151 (9th Cir. 1996). The Miller Response does not address the legal or factual bases  
19 upon which the Reorganized Debtors objected to the Contested Claim, much less meet Mr. Miller’s  
20 burden of proof that the Court should not disallow and expunge the Contested Claim. In support of this  
21

22           <sup>1</sup> The Reorganized Debtors have reviewed the supplemental response filed by Andrew Walters [Docket  
23 No. 12669] (the “**Walters Supplemental Response**”) with respect to Claim No. 86837, which also is  
24 set to be heard at the Hearing. Nothing in the Walters Supplemental Response changes the  
Reorganized Debtors’ arguments with respect to Claim No. 86837 as set forth in the *Omnibus Reply in  
Further Support of the One Hundred Fifteenth Omnibus Objection (No Liability Recategorized  
Claims)* [Docket No. 12581]. The Reorganized Debtors will address Claim No. 86837 at the Hearing.

25           <sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in  
26 the Omnibus Objection.

27           <sup>3</sup> The Reorganized Debtors have redacted the Miller Response in compliance with Federal Rule of  
28 Bankruptcy Procedure 9037.

1 Reply, the Reorganized Debtors submit the Supplemental Request to Take Judicial Notice (the  
2 “**Supplemental RJN**”), filed concurrently herewith, and respectfully state as follows:

3 **II. REPLY TO THE MILLER RESPONSE**

4 The Miller Response states that PG&E’s responsibility for the Mendocino Complex Fire—made  
5 up of the Ranch Fire and the River Fire—“has been found as inconclusive, which leaves much in  
6 question. If PG&E [has] been found responsible for many other wildfires in the area it seems unlikely  
7 they were not responsible for this one.” Miller Response at 2. Mr. Miller also argues that the Public  
8 Safety Power Shutoff (“**PSPS**”) program PG&E enacted for wildfire prevention is “proof [PG&E has]  
9 not fulfilled this expectation [to perform maintenance upkeep] and likely caused the River fire along  
10 with the others.” *Id.* Finally, the Miller Response complains about PG&E’s rates and states that “[a]s a  
11 continuing customer of PG&E which is not by choice my expectation is that they would pay this claim  
12 as it is only a small reimbursement compared to the financial impact they cause on an ongoing monthly  
13 basis.” *Id.*

14 As detailed in the Omnibus Objection and the Request to Take Judicial Notice, the Reorganized  
15 Debtors objected to Mr. Miller’s claim as a Third-Party Fire Claim arising from the Mendocino Complex  
16 Fire. The CAL FIRE Incident Report on the Mendocino Complex Fire indicated that the cause of the  
17 Ranch Fire was human. RJN ¶ C. As the Miller Response indicates, CAL FIRE’s report determined  
18 that the cause of the River Fire was inconclusive. Supplemental RJN ¶ A.

19 Mr. Miller’s burden is to prove that PG&E caused the Mendocino Complex Fire, which he has  
20 not done and cannot do. The fact that CAL FIRE did not determine the specific cause of the River Fire  
21 does not satisfy Mr. Miller’s burden to prove PG&E was responsible for that fire. Mr. Miller’s  
22 suggestion that PG&E’s liability with respect to the Fires enumerated in the Plan indicates liability for  
23 other, unrelated fires likewise does not carry probative weight and, if credited, would set an unwarranted  
24 and unfair precedent. Similarly, the existence of the PSPS program, explicitly aimed at preventing future  
25 wildfires, is not evidence that PG&E caused the River Fire. Finally, that Mr. Miller is unhappy with the

1 rates he pays for electricity does not entitle him to even a “small reimbursement” for alleged damages  
2 not caused by PG&E.<sup>4</sup> Mr. Miller thus has not met his burden of proof.

3 **III. CONCLUSION**

4 For the foregoing reasons, as well as the reasons set forth in the Omnibus Objection and its  
5 supporting documents, the Reorganized Debtors respectfully request that the Court overrule the Miller  
6 Response, sustain the Omnibus Objection, and disallow and expunge the Contested Claim. If the Court  
7 is not prepared to disallow the Contested Claim at the Hearing, the Reorganized Debtors will supplement  
8 their objection to it and address any further arguments at a continued hearing, and they reserve all rights,  
9 arguments, and defenses with respect to the Contested Claim and such supplemental objection.

10 Dated: August 2, 2022

**KELLER BENVENUTTI KIM LLP**

11 By: /s/ Dara L. Silveira  
12 Dara L. Silveira

13 *Attorneys for Debtors and Reorganized Debtors*

22 <sup>4</sup> Mr. Miller’s proof of claim does not make reference to damages based upon the rates he pays for  
23 electricity beyond the attachment of an unexplained postpetition utility bill. To the extent he attempts  
24 to make such a claim through the Miller Response, the Reorganized Debtors object on the basis that  
25 such a rate claim does not represent a valid prepetition right to payment. Under California’s filed rate  
doctrine, public utilities whose rates are approved by a regulatory agency—here, the California Public  
Utilities Commission (the “CPUC”)—“are insulated from lawsuits challenging those rates and from  
court orders having the effect of imposing a rate other than that filed with” or approved by the  
regulatory agency. *Day v. AT&T Corp.*, 63 Cal. App. 4th 325, 335 (1998). As the CPUC has  
approved the rates charged by PG&E, neither its customers nor the Court are “institutionally well  
suited to engage in retroactive rate setting.” *Wegoland Ltd. v. NYNEX Corp.* 27 F.3d 17, 19 (2d Cir.  
1994).